

FLYER

**058A-109
April 30, 1996**

TO: Chief, HRMS

**SUBJ: Public Law 104-106, The National Defense Authorization Act for
Fiscal Year 1996**

This flyer transmits Benefits Administration Letter (BAL) 96-102. The BAL provides information about retirement law changes made by Public Law 104-106 that apply to certain employees who have performed service with a nonappropriated fund instrumentality after December 31, 1965. Office of Personnel Management retirement staff has advised that they are in the process of developing implementing regulations, and that it is very unlikely that the new retirement provisions will apply to a non-Department of Defense employee.

Any questions you have about this flyer may be directed to Rod Meader at (202) 565-8588, Barbara Wright at (202) 565-8586, or Bruce Ducharme at (202) 565-8591.

Employee Relations Division (058A)
Office of Human Resources Management
VA Central Office - Washington, DC

Office of Personnel Management
Retirement and Insurance Service



1920



1954



1959



1986

Benefits Administration Letter

Number: 96-102

Date: April 4, 1996

SUBJECT Public Law 104-106, The National Defense Authorization Act
for Fiscal Year 1996

This letter is to inform you of important new provisions in Public Law 104-106, the National Defense Authorization Act for Fiscal Year 1996, approved February 10, 1996, affecting certain employees Government-wide who have performed service with a nonappropriated fund instrumentality (NAFI) after December 31, 1965.

Under current law, certain employees who have moved, since January 1, 1987, between NAFI and civil service positions within the Department of Defense (DOD) or Coast Guard may elect to continue their NAFI, CSRS, or FERS retirement coverage after the move (see Chapter 12, Part 12A5 of The CSRS and FERS Handbook for Personnel and Payroll Offices). Also, CSRS credit is allowed under limited circumstances for certain NAFI service performed before 1966 (see Chapter 20, Part 20A2 of the Handbook).

Section 1043 of Public Law 104-106 expands the authorities in current law. These provisions do not take effect until OPM, the Department of Defense, and Coast Guard issue regulations, which must be published by August 10, 1996. The new authority affects people who, under limited circumstances at anytime after December 31, 1965, performed service with a NAFI.

Employees who retire before the effective date of the regulations implementing the new provisions will not be able to make elections under the new law. Therefore, we are attaching an information sheet which you may use to counsel any FERS employee considering retirement before the regulations take effect and who has post-1965 NAFI service which is not now creditable.

Certain employees now covered by a NAFI retirement plan who have prior service under CSRS or FERS may be eligible to elect to return to CSRS or FERS coverage or to receive credit under the NAFI retirement plan for FERS service. The NAFI personnel offices will provide information to these employees regarding their opportunities for elections under the new law.

The new provisions are complex and will require eligible employees to pay deposits. The method of determining the amount of the deposit must be established by the regulations to be issued by OPM, DOD, and Coast Guard. Specific counselling of employees regarding service credit for previous NAFL, CSRS or FERS service and the required deposit must therefore await the regulations.

Employees moving within DOD or Coast Guard may, if eligible, continue to make a retirement election under current regulations. Those regulations require an employee to make an election within 30 days to either continue NAFL, CSRS, or FERS retirement coverage, or to enter the new employment system's plan without receiving service credit. Employees who, under current regulations, make an election based upon a qualifying move occurring on or after February 10, 1996, will not be eligible for the elections under the new provisions. DOD and Coast Guard have authority to waive the current 30-day time limit, thereby permitting employees to delay an election until the new benefits are effective, and necessary information is available.

Agencies will be given details involving the new election opportunities once the regulations are published.

A handwritten signature in black ink, appearing to read "John E. Landers", with a stylized flourish at the end.

John E. Landers, Chief
Retirement Policy Division

Attachment

PUBLIC LAW 104-106
NONAPPROPRIATED FUND INSTRUMENTALITY (NAFI) SERVICE

Under current law, certain employees who have moved, since January 1, 1987, between NAFI and civil service positions within the Department of Defense (DOD) or Coast Guard may elect to continue their NAFI retirement, Civil Service Retirement System (CSRS), or Federal Employees Retirement System (FERS) coverage after the move. Also, CSRS credit is allowed under limited circumstances for certain NAFI service performed before 1966. Federal agency personnel offices have guidance on these provisions in The CSRS and FERS Handbook for Personnel and Payroll Offices (Chapter 12, Part 12A5 and Chapter 20, Part 20A2).

Public Law 104-106, enacted February 10, 1996, allows additional retirement credit opportunities for employees who moved between NAFI and civil service positions after December 31, 1965, under certain conditions specified in the new law. These provisions will not take effect until OPM, DOD and the Coast Guard publish regulations to implement all of the provisions. The law requires regulations by August 10, 1996.

FERS EMPLOYEES

If you retire before the regulations take effect, you will not be able to take advantage of the new provisions for NAFI service credit. If, at the time the regulations take effect, you are covered by FERS and have previous service with a DOD or Coast Guard NAFI, you may elect to return retroactively to NAFI retirement plan coverage and obtain service credit under that plan for FERS service, if you meet all five of the following conditions:

1. Currently covered by FERS and never had an opportunity to elect to continue retirement coverage after a move from NAFI employment, and
2. Moved from a position covered by a NAFI retirement plan to a position covered by FERS (not to a position covered by CSRS, even if followed by an election to join FERS), and
3. Performed enough service to become vested in the NAFI retirement plan before moving to a position covered by FERS, and
4. Returned to service covered by FERS within 1 year or less after NAFI employment, and
5. Remained continuously covered (disregarding any break in service of less than 3 days) by FERS since returning to work after the move from the NAFI position.

Also, certain FERS employees may elect to remain covered by FERS and obtain FERS service credit for a period of service under a NAFI retirement plan. This election is available to FERS employees regardless of their previous opportunity to elect to continue retirement coverage after a move from NAFI employment. The FERS employee must, however, meet the other requirements listed on the preceding page (numbers two through five).

NAFI EMPLOYEES

If, at the time the regulations take effect, you are covered by a NAFI retirement plan and moved to a NAF position from a civil service position subject to CSRS and/or FERS after December 31, 1965, you may also be eligible for additional retirement credit opportunities for your CSRS/FERS service if you meet other criteria set out in the law. Contact your personnel office for additional information.

CSRS EMPLOYEES

The law contains no provision which would allow an employee covered by CSRS to elect to retroactively return to NAFI retirement plan coverage or to obtain credit for previous NAFI service under CSRS.

DEPOSITS

Most elections will require payment of a deposit. The method of computing deposits and the procedures for making retroactive elections in retirement coverage and paying a deposit will not be available until the regulations are issued.